

S T A T E   O F   M I C H I G A N  
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the complaint of	)	
<b>LAKESHA ALLEN</b> against <b>CONSUMERS</b>	)	Case No. U-18175
<b>ENERGY COMPANY</b>	)	
_____	)	

At the March 28, 2017 meeting of the Michigan Public Service Commission in Lansing,  
Michigan.

PRESENT: Hon. Sally A. Talberg, Chairman  
Hon. Norman J. Saari , Commissioner  
Hon. Rachael A. Eubanks, Commissioner

**ORDER**

On September 1, 2016, LaKesha Allen filed a complaint against Consumers Energy Company (Consumers) regarding an unpaid balance of \$507.76 that was charged to Ms. Allen for gas utility service at her residence in Pontiac, Michigan (Pontiac Residence), from June 12, 2015 to May 24, 2016. Ms. Allen claims that the service in question should have been in her son's name and also that the Pontiac Residence was uninhabitable during that period. Ms. Allen further claims that she requested that Consumers disconnect her service in October of 2015 and is therefore not responsible for the charges in question.

On November 17, 2016, Consumers filed its answer to the complaint denying any wrongdoing or violation of any law or billing rule. Consumers further responded that the total amount Ms. Allen owes is \$1,010.96 and arises from: (1) \$503.20 for gas service that was provided at Ms. Allen's Auburn Hills home (Auburn Hills Residence), and (2) \$507.76 for gas service that

was provided at the Pontiac Residence from June 12, 2015 to May 24, 2016. Consumers provided that Ms. Allen was a customer at the Auburn Hills Residence from April 1, 2015 through June 22, 2015 and that the amount owed for service provided was transferred to Pontiac Residence.

An evidentiary proceeding was held on November 30, 2016, before Administrative Law Judge Suzanne D. Sonneborn (ALJ). Ms. Allen appeared *pro se* at the hearing and sponsored 22 exhibits. Consumers presented the testimony of Elisah Hudson, a Customer Care Representative in Consumers' Customer Care Department; Sheila Ortega, a fraud investigator for Consumers; and Bret Totoritis, an attorney in Consumers' Regulatory Practice Group. Consumers sponsored 4 exhibits. The Commission Staff (Staff) also appeared at the hearing.

On January 4, 2017, the ALJ issued her Proposal for Decision (PFD). On the same date, handwritten comments from Ms. Allen were entered into the docket. On January 17, 2017, the ALJ sent the Executive Secretary and Consumers a series of emails sent by Ms. Allen. The emails were also entered into the docket and the ALJ instructed Consumers to treat the emails as exceptions to the PFD.<sup>1</sup> On January 25, 2017, Consumers filed replies to exceptions. The Staff indicated by letter that they would not be filing exceptions or replies to exceptions.

### Discussion

Under the Commission's Rules of Practice and Procedure, "[t]he complainant generally shall have the burden of proof as to matters constituting the basis for the complaint and the respondent shall have the burden of proof as to matters constituting affirmative defenses." Mich Admin Code, R 792.10446. After reviewing the exhibits and transcript of the hearing, the ALJ determined that Ms. Allen had failed to meet her burden and that there was no evidence that Consumers violated

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<sup>1</sup> The Commission does not agree to treat the profanity-laced emails from Ms. Allen as exceptions to the PFD and will not consider them in this order.

Rules 460.107(2) or 460.124(2) of the Commission's Consumer Standards and Billing Practices for Electric and Gas Residential Service (Billing Rules). The ALJ recommended that the Commission dismiss the complaint with prejudice.

The Commission agrees. The Commission further agrees that the issues raised by Ms. Allen's complaint and Consumers' response fall under R 460.107(2) and R 460.124(2) of the Billing Rules. R 460.107(2) provides:

If the applicant is renting the premises for which service is requested, a utility may require proof that the applicant is a tenant. Written or oral confirmation by the manager, landlord, or owner of the property, or a verified signed copy of the rental agreement is sufficient proof. An applicant may verify a lease by submitting a lease agreement containing notarized signatures of the landlord and tenant or by providing the utility with contract information for the landlord.

Additionally, R 460.124(2) provides:

Notwithstanding the provisions of subrule (1) of this rule, if there is shutoff or termination of service at a separate residential metering point, residence, or location in accordance with these rules, then a utility may transfer an unpaid balance to any other residential service account of the customer. The utility must have valid identification data that shows the customer is the same at both residences and must present that data to the customer upon request.

The record demonstrates that Ms. Allen executed a lease agreement at the Pontiac Residence on June 13, 2015. Consumer witness, Ms. Hudson testified that Ms. Allen requested service at the Pontiac Residence beginning June 12, 2015. Ms. Hudson further testified that the complainant did contact Consumers on November 30, 2015 to have service discontinued in her name and placed in the name of her son, Anthony Kendricks. However, as Ms. Hudson testified, Consumers could not verify Mr. Kendricks' tenancy at the Pontiac Residence because he did not have a verified, signed copy of the lease agreement. The evidence further demonstrates that Ms. Allen did provide Mr. Kendricks with a sublease for Mr. Kendricks to submit to Consumers. The sublease, however, was not authorized by the management company for the Pontiac Residence. Ms. Allen does not

dispute nor contradict the evidence regarding the unauthorized sublease. With no authorized lease agreement from Mr. Kendricks, the gas service was reinstated in Ms. Allen's name. According to the Billing Rules, Ms. Allen's allegations that the reinstatement of the service in her name was unlawful is unfounded.

With regards to the service at the Auburn Hills Residence, Consumers' witness, Ms. Ortega, testified that she conducted a fraud investigation at the request of Katrina Tatum. According to Ms. Ortega, Consumers received an identity theft complaint from Ms. Tatum that gas service was fraudulently placed in her name at the Auburn Hills Residence. Ms. Ortega's investigation concluded that Ms. Allen was the legal tenant for the Auburn Hills Residence and that the transfer of the outstanding balance of this account to the Pontiac Residence was proper under the Billing Rules.

Bret Totoritis testified to his involvement as an attorney on behalf of Consumers in Case No U-17996 in which a settlement agreement was reached between the utility and Ms. Allen regarding the balance owed at the Auburn Hills Residence. Mr. Totoritis testified that the terms of the settlement agreement provided that Ms. Allen pay \$400.00 to satisfy the amount owed at the Auburn Hills Residence and dismiss her complaint. Ms. Allen, however, never paid the \$400.00 settlement amount and thus the total of \$503.20 was reinstated on the Auburn Hills Residence account that was then transferred to the account for the Balboa Residence.

Ms. Allen does not present any evidence that she complied with the terms of the settlement agreement reached in Case No. U-17996. Furthermore, Ms. Allen does not put forth any credible evidence that Consumers violated any Billing Rule related to the \$507.76 for gas service she disputes in her complaint. The Commission therefore agrees with the findings of fact and

conclusions of law set forth in the PFD and finds that the complaint should be dismissed with prejudice.

THEREFORE, IT IS ORDERED that:

A. Consumers Energy Company did not violate R 460.107(2) or R 460.124(2) of the Commission's Consumer Standards and Billing Practices for Electric and Gas Residential Service Rules with respect to the amounts charged to LaKesha Allen for gas service at her residence in Pontiac, Michigan.

B. The complaint of LaKesha Allen against Consumers Energy Company is dismissed with prejudice.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order under MCL 462.26. To notify the Commission of an appeal, appellants shall send required notices to both the Commission's Executive Secretary and to the Commission's Legal Counsel. Electronic notifications should be sent to the Executive Secretary at [mpscedockets@michigan.gov](mailto:mpscedockets@michigan.gov) and to the Michigan Department of the Attorney General - Public Service Division at [pungpl@michigan.gov](mailto:pungpl@michigan.gov). In lieu of electronic submissions, paper copies of such notifications may be sent to the Executive Secretary and the Attorney General - Public Service Division at 7109 W. Saginaw Hwy., Lansing, MI 48917.

MICHIGAN PUBLIC SERVICE COMMISSION

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Sally A. Talberg, Chairman

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Norman J. Saari, Commissioner

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Rachael A. Eubanks, Commissioner

By its action of March 28, 2017.

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Kavita Kale, Executive Secretary